

The National Multi Housing Council, the National Apartment Association, the Institute of Real State Management the National Association of Real State Investment Trusts and the Real State Round Table challenged the authority of the FCC to regulate communications. These real state industry forums forget that when the federal government creates an agency it is created with a broad intend. The code of Federal Regulation and the different acts that get drafted from time to time just reflect the ever changing character of government regulations and their need to change with time. If regulations are not in the best interest of the American public, the government can change that. It is never smart to challenge the power of the United States Government, the last person I remember doing that was found hiding in a hole on the ground.

It was the real state industry that got into communications and not the other way around. If these industry forums don't like current communications regulations or the FCC interpretation of such regulations they have one clear choice, get out of the communications business. For as long as the real state industry try to resell telecommunication services there have to be regulation and who better than FCC. Otherwise we would have chaos...

The specifics of the jurisdiction pertain to who owns what. Developer and Property Managers and long tried to get around FCC regulation by not owning the cable facilities and purchasing programming from a prevailing cable provider. They forget that in order to qualify as a cables operator they only need to hold a significant interest directly or indirectly in the cable facility. The fact that Property Managers and Developers profit directly from these contracts place them in the direct interest category; hence they are cable operators according to FCC regulation and subject to their jurisdiction. If that fails, the fact that those cable facilities are located on their land will surely place them on the indirect interest category.

On their summary, real state industry forums go on to say "There is no policy justification for Commission regulation of exclusive marketing agreements" I think there is; the well being of the consumers and strengthening of telecommunications and broadband. The strengthening of broadband was mandated by Congress.

It is my opinion that it won't be long before you see a class action lawsuit from the consumers that have been affected by these practices to both the real state and the cable industry. By binding privately owned condominium units deeds to cable contracts you have done what amounts to a third party infringement on private property right. The owner of the private condominium does not receive any compensation for the exclusive cable agreement tied to his private property. Not only do I have to sell the house but I have to find someone that agrees with the financial liability of an exclusive contract that does not benefit me in any way, yet it is tied to my deed via my condominium disclosure package.

A similar scenario plays for rental properties. When rental properties are sold, exclusivity contract are seen as a major liability by prospective buyers. They know, the longer the exclusive contract, the longer that building has been without major communications infrastructure update. This is because under exclusive contracts there is no incentive to update communications infrastructure, you have to pay the contracted provider regardless of level of service. Prospective buyers of rental properties also know that outdated infrastructure and lack of choices for consumers are reasons for high turnover.

Perhaps, real state companies should go back to their roots and look for a different business models. You own property and within that property there is communication infrastructure that belongs to a cable company. It follows that, the more easements for communications and more companies you allow in, the more money you could make from your land by charging cable companies. States have been doing it for a long time by “selling” right of ways. It won’t make you rich overnight, but is long term and sustainable. Anything that will make rich overnight is nothing more than a scam.

For the real state industry, the more time you spend defending the exclusive deals the more time you give cable industry to redacts laws contrary to your interest. If you have not realized it yet, the landscape have changed and the exclusive cash cow is seriously ill. Shift gears and start protecting you main source of income.

The argument of the cost of infrastructure is worn down and insults the intelligence of your readers, putting a central air conditioner on a house cost \$3,500.00 or more yet you seem to be able to put an air conditioner unit with no problems but are highly challenge by all aspects, including financing of one \$1,000.00 wire.

On the argument, “In any case the Commission has no authority to regulate marketing agreements”. The Supreme Court has mostly upheld the authority of the FCC over telecommunication in general. It was the FCC “authority” thru deregulation of long distance that allows everyone to enjoy good long distance rates today. Further, when small companies (some of them cable operators), needed access to “unbundled network segments” or pieces of telecommunications infrastructure they when to the FCC and got the relief they needed. Industry can’t have it both ways. You can’t question authority just because thing are not going your way (unless you are a teenager).

The real state forums concluded their summary with the statement” Without exclusive contracts, the large cable companies and local exchange carriers will dominate the market, and apartment residents and owners will have fewer competitive options”. I much rather chose between two providers, the cable company and local exchange carrier than have no choice at all, which is what exclusivity really offers.

FCC Docket 07-51 has enough information on how the diverse forms of exclusivity, bulk billing and

other marketing agreement have negatively impacted American families. With the housing decline and high rate of foreclosure these agreements put one more strain on an already beaten consumer. With one stroke of the pen, the FCC could be part of the recovery on housing and communications, two important sectors of the economy. I respectfully request the FCC ban all forms of exclusivity.

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